

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

JOINT APPLICATION OF LOUISVILLE GAS	)	
AND ELECTRIC COMPANY AND KENTUCKY	)	
UTILITIES COMPANY FOR REVIEW,	)	CASE NO.
MODIFICATION, AND CONTINUATION OF	)	2014-00003
EXISTING, AND ADDITION OF NEW,	)	
DEMAND-SIDE MANAGEMENT AND	)	
ENERGY-EFFICIENCY PROGRAMS	)	

ORDER

This matter arises upon the motion of Wallace McMullen and Sierra Club (collectively "Movants") filed February 5, 2014, for full intervention. Movants state that they meet the standards for intervention because the Sierra Club has substantial experience working on Demand-Side Management ("DSM") issues throughout the nation and before the Commission, and this will assist the Commission in reviewing the DSM application. Movants also claim that they have a special interest in the case that is not adequately represented by another party in that the Attorney General, through his Office of Rate Intervention ("AG"), will not marshal the same level of expertise that the Sierra Club can. Movants assert that their participation as intervenors will not unduly complicate or disrupt the proceedings.

Louisville Gas and Electric Company and Kentucky Utilities Company (collectively "LG&E/KU") filed an objection to Movants' intervention on February 12, 2014, arguing that neither Mr. McMullen nor the Sierra Club have a special interest in this proceeding. LG&E/KU assert that Mr. McMullen's interests are the same as those

of LG&E/KU's other 943,000 customers, and that the AG represents those customers' interests. LG&E/KU also argue that Movants have not proven that they will present issues or develop facts that will assist the Commission. LG&E/KU assert that the Sierra Club has overstated its role in previous proceedings involving DSM issues, has only participated in one DSM case, and that the Sierra Club's assertions are generalizations and make no specific claims regarding how they will assist the Commission in this proceeding.

Movants, in their February 17, 2014 response to LG&E/KU's objection, argue that LG&E/KU incorrectly minimize the Sierra Club's role in cases involving DSM issues in past Commission proceedings. Movants point to Case No. 2011-00375,<sup>1</sup> in which the Sierra Club intervened. Movants assert that the Commission adopted the Sierra Club's recommendations in that case regarding conducting a DSM market characterization or potential study. Movants claim that the Sierra Club was the sole party to develop this issue, proving the value of its assistance to the Commission in this proceeding. Movants also point to Sierra Club's role and participation in other cases involving DSM issues.

The AG, on February 18, 2014, filed a "Notice of Contest" to Movants' intervention. In the Notice of Contest, the AG argues that under KRS 278.285(1)(f), the AG is the only stakeholder in DSM programs as specified by statute. The AG states that the AG, LG&E/KU, and numerous other customer representatives worked to

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<sup>1</sup> Case No. 2011-00375, Joint Application of Louisville Gas and Electric Company and Kentucky Utilities Company for a Certificate of Public Convenience and Necessity and Site Compatibility Certificate for the Construction of a Combined Cycle Combustion Turbine at the Cane Run Generating Station and the Purchase of Existing Simple Cycle Combustion Turbine Facilities from Bluegrass Generation Company, LLC in LaGrange, Kentucky (Ky. PSC May 3, 2012).

mutually arrive at a unanimous decision, or close to it, before filing the DSM program with the Commission. The AG states that the parties to the collaborative process first introduce and then vet DSM ideas, even if no consensus is reached and the parties later intervene. The AG states that Movants did not participate in the collaborative process, and he disputes Movants' assertion that the AG cannot marshal the necessary resources for this proceeding. The AG asserts that Movants misrepresented Sierra Club's role in previous Commission cases and argues that Movants have adopted a heavy-handed approach to DSM issues, which conflicts with the collaborative spirit encouraged in KRS 278.285. On February 24, 2014, Movants filed a motion to strike the AG's Notice of Contest as untimely, citing 807 KAR 5:001, Section 5(2), as requiring responses to be filed within seven days of a motion. In the alternative, Movants filed a reply on the merits of the AG's Notice of Contest.

Based on the record and being otherwise sufficiently advised, the Commission finds that Movants fall within the category of "customer representatives" as used in the DSM statute, KRS 278.285(1)(f). Although the Movants were not involved in the DSM collaborative that developed the DSM proposals filed in this case, it appears that their intervention is likely to present issues and develop facts that will assist the Commission in fully considering the matter without unduly complicating or disrupting the proceedings, and we will grant them full rights of a party in this proceeding.

The Commission recognizes that prior to the filing of this DSM case, the AG actively participated in a DSM collaborative process with other stakeholders and LG&E and KU, and the AG has made significant contributions as a participant in prior DSM cases. However, prior interventions by the Sierra Club in combination with its member

customers have also assisted the Commission in considering issues of DSM and energy-efficiency programs. For purposes of this case, the Commission further finds that the Movants' lack of participation in the collaborative process prior to the DSM application's being filed should not be a bar to Movants' intervention.

Finally, the Commission finds that while our rules of procedure require that a response to a motion be filed within seven days of the motion, the AG's Notice of Contest references both the Movants' motion to intervene and their February 17, 2014 reply to the LG&E/KU objection to intervention. Under the circumstances presented here, we find no prejudice in accepting the AG's Notice of Contest and denying the Movants' motion to strike.

IT IS HEREBY ORDERED that:

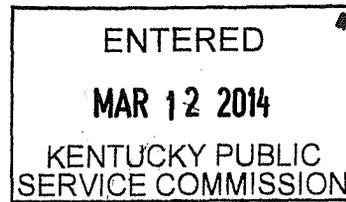
1. The motion of Movants to intervene is granted.
2. Movants shall be entitled to the full rights of a party and shall be served with the Commission's Orders after the date of this Order.
3. Movants shall comply with all provisions of the Commission's regulation, 807 KAR 5:001, Section 8, related to the service and electronic filing of documents.
4. Pursuant to 807 KAR 5:001, Section 8(9), within seven days of entry of this Order, Movants shall file a written statement, with a copy to parties of record, that:
  - a. States that it, or its agent, possesses the facilities to receive electronic transmissions.
  - b. Sets forth the electronic mail address to which all electronic notices and messages related to this proceeding should be served.

c. States that it waives its right to service of any Commission Orders by mail for purposes of this proceeding only.

5. Movants shall adhere to the procedural schedule set forth in the Commission's January 30, 2014 Order.

6. Movants' motion to strike the AG's Notice of Contest is denied.

By the Commission



ATTEST:

  
Executive Director

Case No. 2014-00003

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